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In re Application of CARTIER-LACAVE et al :
U.S. Application No.: 10/501,738 :
PCT Application No.: PCT/IB02/05698 :
Int. Filing Date: 06 December 2002 :
Priority Date Claimed: 06 December 2001 :
Attorney Docket No.: 03715.0139 :
For: USE OF CD34+ HEMATOPOIETIC :
PROGENITOR CELLS FOR THE :
TREATMENT OF CNS DISORDERS :

DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 16 July 2004.

BACKGROUND

On 06 December 2002, applicant filed international application PCT/IB02/05698, which claimed priority of an earlier United States application filed 06 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 12 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 June 2004.

International application PCT/IB02/05698 became abandoned as to the United States for failure to timely pay the basic national fee.

On 16 July 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant the petition states, "the entire delay in filing the required fee, transmittal papers and declaration from the due date for entering the national phase until the filing of this petition, was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 06 December 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 16 July 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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